

AMENDED IN ASSEMBLY APRIL 8, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2744**

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**Introduced by Assembly Member Huffman**  
**(Coauthors: Assembly Members DeSaulnier, Hancock, Lieber,**  
**Swanson, and Torrico)**  
**(Coauthor: Senator Torlakson)**

February 22, 2008

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An act to ~~amend Sections 8502, 8503, 8504, 8505, 8506, 8507, 8508,~~  
~~8509, and 8510~~ *add Section 66538 to the Government Code, and to*  
*repeal Chapter 12 (commencing with Section 8500) of Part 2 of Division*  
2 of the Revenue and Taxation Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2744, as amended, Huffman. Metropolitan Transportation Commission: fee: motor vehicle fuel.

(1) Under existing law, the Metropolitan Transportation Commission is created to provide comprehensive regional transportation planning for the 9-county region comprising the commission's jurisdiction. Generally, the commission is responsible for planning, approving, and carrying out various transportation-related activities within the region, including functions pertaining to highways, toll bridges, and transit systems.

~~The~~

*Existing law authorizes the commission* ~~is authorized~~ to impose a tax on the privilege of selling within the region motor vehicle fuel, as defined, excluding motor vehicle fuel used to power aircraft, upon approval of the measure by the voters within the region at an election.

This bill would *repeal this authorization. It would instead* authorize the commission to impose a fee on each gallon of motor vehicle fuel, as defined, delivered into the fuel supply tank or tanks of a motor vehicle *operated on the streets or highways* in the region, ~~excluding motor vehicle fuel used to power aircraft~~, for a 25-year period. The bill would require the commission to adopt a regional ~~transportation/climate~~ *transportation and climate* protection expenditure plan for the revenues derived from the fee, if it is imposed. The fee would be levied at a rate established by the commission, but not exceeding \$0.10 per gallon.

The commission would be authorized to impose the fee upon approval of the ~~measure~~ *imposition* by the voters within the region at the election.

The bill would require the commission to contract with the State Board of Equalization to administer the fee *and to create a fund into which fee revenues would be deposited*.

The bill would impose a state-mandated local program by requiring, upon the request of the commission, the board of supervisors of each county and city and county within the region to submit to the voters at a local election consolidated with a statewide primary or general election specified by the commission a measure, adopted by the commission, authorizing the commission to impose the fee for a 25-year period. The bill would require the commission to reimburse each county and city and county in the region for the cost of submitting the measure to the voters. The bill would provide that these costs shall be reimbursed from revenues derived from the fee if the measure is approved by the voters and from any available funds of the commission if the measure is not approved.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that the Legislature finds there is no mandate contained in the bill that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to these constitutional and statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 66538 is added to the Government Code,*  
2     *to read:*

3     66538. (a) *The Legislature finds and declares all of the*  
4     *following:*

5     (1) *The California Global Warming Solutions Act of 2006*  
6     *(Division 25.5 (commencing with Section 38500) of the Health*  
7     *and Safety Code) requires California to reduce statewide*  
8     *greenhouse gas emissions to 1990 levels by 2020.*

9     (2) *The transportation sector is responsible for approximately*  
10    *40 percent of statewide greenhouse gas emissions and significant*  
11    *degradation of public health and environmental quality due to air*  
12    *and water pollution.*

13    (3) *Fully 50 percent of the bay area's greenhouse gas emissions*  
14    *come from the transportation sector, making transportation the*  
15    *leading contributor of climate change pollution in the bay area.*

16    (4) *The Department of Finance has determined that the*  
17    *population of the bay area is rapidly growing and will reach almost*  
18    *nine million by 2030. According to the Metropolitan Transportation*  
19    *Commission, average weekday daily vehicle miles traveled is*  
20    *projected to increase 41 percent between 2000 and 2030.*

21    (5) *Accordingly, it is the intent of the Legislature to allow bay*  
22    *area voters to decide whether to alleviate burdens on the global*  
23    *climate by imposing a fee on motor vehicle fuel and using the funds*  
24    *derived from that fee to reduce and mitigate climate changing*  
25    *emissions from transportation.*

26    (b) *For purposes of this section, the following definitions apply:*

27    (1) *"Commission" means the Metropolitan Transportation*  
28    *Commission, which has the same meaning as that term is described*  
29    *in Section 66502.*

30    (2) *"District" means the Bay Area Air Quality Management*  
31    *District, which has the same meaning as that term is described in*  
32    *Section 40200 of the Health and Safety Code.*

33    (3) *"Fee" means a fee imposed on motor vehicle fuel to mitigate*  
34    *greenhouse gas pollution caused by emissions from the*  
35    *consumption of motor vehicle fuel, by reducing emissions.*

36    (4) *"Greenhouse gas" and "greenhouse gases" have the same*  
37    *meanings as those terms are defined in subdivision (g) of Section*  
38    *38505 of the Health and Safety Code.*

1     (5) “Motor vehicle” means and includes every self-propelled  
2 vehicle operated or suitable for operation on a public street or  
3 highway in the bay area.

4     (6) “Motor vehicle fuel” means gasoline or any other  
5 combustible liquid, regardless of the name by which the liquid is  
6 known or sold, the chief use of which in this state is for the  
7 propulsion of motor vehicles.

8     (7) “Transportation and climate protection expenditure plan”  
9 means the expenditure plan adopted by the commission and the  
10 district and approved by voters.

11     (c) If approved by the voters of the bay area pursuant to  
12 subdivision (e), the commission may impose a greenhouse gas  
13 mitigation fee on each gallon of motor vehicle fuel that is delivered  
14 into the fuel supply tank or tanks of a motor vehicle in the region.  
15 The fee shall be levied at a rate established by the commission,  
16 which shall not exceed ten cents (\$0.10) per gallon. Commencing  
17 on January 1 of the year following the election approving the fee,  
18 the fee may be imposed for a period not to exceed 25 years.

19     (d) (1) Prior to imposing the fee, the commission and district  
20 shall jointly adopt a regional transportation and climate protection  
21 expenditure plan for the revenues derived from the fee. The  
22 transportation and climate protection expenditure plan shall fund  
23 programs and projects to cost effectively reduce greenhouse gas  
24 emissions directly associated with the operation of motor vehicles.  
25 The regional transportation and climate protection expenditure  
26 plan shall describe proposed transportation projects and programs  
27 and the estimated cost of each. Adoption of the expenditure plan  
28 by the commission and district shall include a finding by the  
29 commission and district that the expenditure plan will achieve a  
30 nexus between payment of the motor fuel fee and the mitigation of  
31 greenhouse gas emissions.

32     (2) In developing the expenditure plan, the commission and  
33 district shall prioritize expenditures that are most cost effective at  
34 producing reductions in greenhouse gas emissions from motor  
35 vehicle use in the bay area. These reductions should include the  
36 associated greenhouse gas emission reduction benefits of reduced  
37 traffic congestion to ensure the reductions accurately reflect the  
38 full benefits of the project or program. The expenditure plan  
39 development process shall include the development of a diverse  
40 working group, with representatives from regional agencies and

1 commissions, local agencies such as cities, counties, and  
2 congestion management agencies, nonprofit transportation and  
3 land use experts, academic institutions working on climate change  
4 and vehicle miles traveled reduction, and other interested groups.  
5 This working group shall make recommendations to the commission  
6 and the district on which projects to include in the expenditure  
7 plan.

8 (3) Estimates of cost, greenhouse gas reduction, and mobility  
9 improvement for each project shall be prepared by the commission  
10 and district, in consultation with project sponsors. An equity  
11 analysis will be conducted, showing the costs and benefits to each  
12 income group of the proposed expenditure plan. A goal of the  
13 transportation and climate protection expenditure plan is to select  
14 projects that cost effectively reduce climate emissions, and provide  
15 at least as much benefit to low-income households, on average,  
16 as may be imposed in costs. Estimates of other funding required  
17 to complete any project shall be based on an estimate of funds  
18 reasonably expected to be available during the 25-year period  
19 commencing with the year that the fee is initially imposed.

20 (4) If not otherwise available, sufficient funding shall be  
21 included in the cost estimates and expenditure plan presented to  
22 the voters to operate and maintain each included project for the  
23 duration of the fee.

24 (e) (1) Following the joint adoption by the commission and  
25 district of a regional transportation and climate protection  
26 expenditure plan, the board of supervisors of each county and city  
27 and county in the region shall, upon the request of the commission  
28 and district, submit to the voters at a local election consolidated  
29 with a statewide primary or general election specified by the  
30 commission, a measure, adopted by the commission, authorizing  
31 the commission to impose the fee throughout the region.

32 (2) The measure may not be grouped with state or local  
33 measures on the ballot, but shall be set forth in a separate category.

34 (3) The commission shall reimburse each county and city and  
35 county in the region for the cost of submitting the measure to the  
36 voters. These costs shall be reimbursed from revenues derived  
37 from the fee if the measure is approved by the voters or, if the  
38 measure is not approved, from any funds of the commission that  
39 are available for general transportation planning.

1     (f) Upon approval of the measure by the margin of voters within  
2     the region voting at a local election as determined necessary by  
3     the California Constitution or other applicable statutory provisions,  
4     the commission may impose the fee in all counties in the region in  
5     which the measure appeared on the ballot.

6     (g) The commission shall contract with the State Board of  
7     Equalization for the administration of the fee imposed under this  
8     section, and the board shall be reimbursed for its actual cost in  
9     the administration of the fee and for its actual cost of preparation  
10    to administer the fee based upon an independent audit.

11    (h) The net revenues shall be deposited into the Transportation  
12    Fund for Climate Protection, to be created and administered by  
13    the commission, and shall be expended in accordance with this  
14    section.

15    (i) The net revenues received by the commission shall be  
16    expended only in accordance with the regional transportation and  
17    climate protection expenditure plan adopted pursuant to  
18    subdivision (d), except that the commission may deduct from those  
19    revenues funds to reimburse the commission and district for  
20    expenses incurred in the initial implementation of this section and  
21    thereafter, its cost of administration, not to exceed 5 percent of  
22    annual net revenues.

23    (j) In order to be eligible for funds derived from the fee, project  
24    sponsors shall comply with all applicable commission and district  
25    rules, regulations, and recommendations including, but not limited  
26    to, those adopted pursuant to Section 66516, and Sections 99244  
27    and 99246 of the Public Utilities Code. In consultation with its  
28    working group and other interested parties, the commission shall  
29    also develop and implement a program to ensure that project  
30    sponsors expend funds derived from the fee in an efficient and  
31    effective manner. No operating or maintenance funding provided  
32    from the fee shall be used to supplant any funds within the  
33    discretionary control of the recipient agency that are used for  
34    existing transportation operating or maintenance activities.

35    (k) The regional transportation and climate protection  
36    expenditure plan shall include a process of ensuring periodic  
37    public review of the progress of the regional transportation and  
38    climate protection expenditure plan and citizen oversight.

39    (l) The commission shall update the transportation and climate  
40    expenditure plan to reflect the completion of projects included in

1 *the initial voter-approved plan and to add additional projects that*  
2 *meet the requirements of subdivision (d) after a minimum of two*  
3 *public hearings in accordance with subdivision (j). Any amendment*  
4 *shall comply with all of the requirements for the plan prescribed*  
5 *by this section.*

6 *(m) The provisions of this section are severable. If any provision*  
7 *of this section or its application is held invalid, that invalidity shall*  
8 *not affect other provisions or applications that can be given effect*  
9 *without the invalid provision or application.*

10 *SEC. 2. Chapter 12 (commencing with Section 8500) of Part*  
11 *2 of Division 2 of the Revenue and Taxation Code is repealed.*

12 *SEC. 3. The Legislature finds that there is no mandate*  
13 *contained in this act that will result in costs incurred by a local*  
14 *agency or school district for a new program or higher level of*  
15 *service which require reimbursement pursuant to Section 6 of*  
16 *Article XIII B of the California Constitution and Part 7*  
17 *(commencing with Section 17500) of Division 4 of Title 2 of the*  
18 *Government Code.*

19 ~~SECTION 1. Section 8502 of the Revenue and Taxation Code~~  
20 ~~is amended to read:~~

21 ~~8502. The commission may impose a fee on each gallon of~~  
22 ~~motor vehicle fuel, as defined by Section 7326, that is delivered~~  
23 ~~into the fuel supply tank or tanks of a motor vehicle in the region.~~  
24 ~~The fee shall not apply to motor vehicle fuel used to power aircraft.~~  
25 ~~The fee shall be levied at a rate established by the commission,~~  
26 ~~but not exceeding ten cents (\$0.10) per gallon. Commencing on~~  
27 ~~January 1 of the year following the election approving the fee, the~~  
28 ~~fee may be imposed for a period not to exceed 25 years.~~

29 ~~SEC. 2. Section 8503 of the Revenue and Taxation Code is~~  
30 ~~amended to read:~~

31 ~~8503. (a) Prior to imposing the fee, the commission shall adopt~~  
32 ~~a regional transportation/climate protection expenditure plan for~~  
33 ~~the revenues derived from the fee. The regional~~  
34 ~~transportation/climate protection expenditure plan shall describe~~  
35 ~~proposed transportation projects and programs and the estimated~~  
36 ~~cost of each. Adoption of the expenditure plan by the commission~~  
37 ~~shall include a finding by the commission that the expenditure~~  
38 ~~plan will achieve a nexus between payment of motor fuel fee and~~  
39 ~~benefit received. Benefit, in this context, includes long-term~~

1 offsetting of the congestion and climate change impacts of motor  
2 fuel consumption.

3 (b) The regional transportation/climate protection expenditure  
4 plan shall also meet the following minimum objectives and criteria:

5 (1) Project expenditures shall reflect an equitable distribution  
6 of revenues throughout the region with not less than 95 percent of  
7 revenues from each county, based on population, being invested  
8 over the 25-year life of the fee in projects attributable to that  
9 county. In addition, during every five-year period, no less than 80  
10 percent of the revenues from each county, based on population,  
11 invested during that period shall be invested in projects attributable  
12 to that county. The commission shall allocate any accrued interest  
13 according to the same formula. At the time of the development of  
14 the expenditure plan, the commission shall use population data  
15 from the most recent United States census, and shall take into  
16 account estimated increases in population over the 25-year period  
17 projected by the Association of Bay Area Governments.

18 (2) Projects and programs included in the expenditure plan shall  
19 be consistent with the commission's regional transportation/climate  
20 protection plan. In developing the expenditure plan, the  
21 commission, in prioritizing expenditures that are most  
22 cost-effective at producing ongoing reduction in carbon emissions  
23 from motor vehicle use in the bay area relative to the likely  
24 status-quo trends, so as to offset the carbon-producing and  
25 congestion-producing effects of consumption of motor vehicle  
26 fuel, shall give additional consideration to projects or programs  
27 where local land use policies reduce overall vehicle miles traveled.  
28 The expenditure plan development process shall include  
29 consultation with cities, counties, transit operators, congestion  
30 management agencies, the Bay Area Air Quality Management  
31 District, climate protection and energy efficiency experts, and  
32 other interested groups.

33 (3) Estimates of cost, carbon reduction, and mobility  
34 improvement for each project shall be prepared by the commission,  
35 in consultation with project sponsors, and verified by an  
36 independent expert retained by the commission for that purpose.  
37 Estimates of other funding required to complete any project shall  
38 be based on an estimate of funds reasonably expected to be  
39 available during the 25-year period commencing with the year that  
40 the fee is initially imposed.



1     ~~(4) If not otherwise available, sufficient funding shall be~~  
2     ~~included in the cost estimates and expenditure plan presented to~~  
3     ~~the voters to operate and maintain each included project for the~~  
4     ~~duration of the fee.~~

5     ~~SEC. 3. Section 8504 of the Revenue and Taxation Code is~~  
6     ~~amended to read:~~

7     ~~8504. (a) Following the adoption by the commission of a~~  
8     ~~regional transportation/climate protection expenditure plan, the~~  
9     ~~board of supervisors of each county and city and county in the~~  
10    ~~region shall, upon the request of the commission, submit to the~~  
11    ~~voters at a local election consolidated with a statewide primary or~~  
12    ~~general election specified by the commission, a measure, adopted~~  
13    ~~by the commission, authorizing the commission to impose the fee~~  
14    ~~throughout the region.~~

15    ~~(b) The measure may not be grouped with state or local measures~~  
16    ~~on the ballot, but shall be set forth in a separate category and shall~~  
17    ~~be identified as Regional Measure 3.~~

18    ~~(c) Regardless of the system of voting used, the wording of the~~  
19    ~~measure shall read as follows:~~

20    ~~—~~

21    ~~“To reduce global warming pollution, improve energy efficiency,~~  
22    ~~promote energy independence, improve local transportation~~  
23    ~~options, and reduce traffic congestion, shall voters authorize a Bay~~  
24    ~~Area Regional Transportation Fund for Climate Protection that~~

- 25    ~~•Increases public transit options, reliability, and ridership~~
- 26    ~~•Increases housing supply near transit~~
- 27    ~~•Increases safety and use of walking and bicycling~~
- 28    ~~•Promotes fuel efficient vehicles and clean fuels~~

29    ~~By implementing a \_\_\_\_\_ cents per gallon fee on each gallon of~~  
30    ~~gasoline that is delivered into the tanks of motor vehicles in the~~  
31    ~~bay area?”~~

32    ~~—~~

33    ~~(d) The commission shall reimburse each county and city and~~  
34    ~~county in the region for the cost of submitting the measure to the~~  
35    ~~voters. These costs shall be reimbursed from revenues derived~~  
36    ~~from the fee if the measure is approved by the voters or, if the~~  
37    ~~measure is not approved, from any funds of the commission that~~  
38    ~~are available for general transportation planning.~~

39    ~~SEC. 4. Section 8505 of the Revenue and Taxation Code is~~  
40    ~~amended to read:~~

1     ~~8505. Upon approval of the measure by the margin of voters~~  
2 ~~within the region voting at a local election as determined necessary~~  
3 ~~by the California Constitution or other applicable statutory~~  
4 ~~provisions, the commission may impose the fee in all counties in~~  
5 ~~the region in which the measure appeared on the ballot.~~

6     ~~SEC. 5. Section 8506 of the Revenue and Taxation Code is~~  
7 ~~amended to read:~~

8     ~~8506. The commission shall contract with the State Board of~~  
9 ~~Equalization for the administration of any fee imposed under this~~  
10 ~~chapter, and the board shall be reimbursed for its actual cost in the~~  
11 ~~administration of the fee and for its actual cost of preparation to~~  
12 ~~administer the fee based upon an independent audit.~~

13     ~~SEC. 6. Section 8507 of the Revenue and Taxation Code is~~  
14 ~~amended to read:~~

15     ~~8507. The State Board of Equalization shall adopt the necessary~~  
16 ~~rules and regulations to administer the fee.~~

17     ~~SEC. 7. Section 8508 of the Revenue and Taxation Code is~~  
18 ~~amended to read:~~

19     ~~8508. After deducting its cost of administering the fee, the~~  
20 ~~State Board of Equalization shall periodically transmit the net~~  
21 ~~revenues to the commission as promptly as possible. Transmittal~~  
22 ~~of those revenues shall be made at least twice in each calendar~~  
23 ~~quarter.~~

24     ~~SEC. 8. Section 8509 of the Revenue and Taxation Code is~~  
25 ~~amended to read:~~

26     ~~8509. The net revenues received by the commission shall be~~  
27 ~~expended only in accordance with the regional~~  
28 ~~transportation/climate protection expenditure plan adopted pursuant~~  
29 ~~to Section 8503, except that the commission may deduct from~~  
30 ~~those revenues funds to reimburse it for expenses incurred in the~~  
31 ~~initial implementation of this chapter, and thereafter, its cost of~~  
32 ~~administration, not to exceed 1 percent of annual net revenues.~~

33     ~~SEC. 9. Section 8510 of the Revenue and Taxation Code is~~  
34 ~~amended to read:~~

35     ~~8510. In order to be eligible for funds derived from the fee,~~  
36 ~~project sponsors shall comply with all applicable commission rules~~  
37 ~~and regulations including, but not limited to, those adopted~~  
38 ~~pursuant to Section 66516 of the Government Code and Sections~~  
39 ~~99244 and 99246 of the Public Utilities Code. In consultation with~~  
40 ~~cities, counties, transit operators, congestion management agencies,~~

1 and other interested groups, the commission shall also develop  
2 and implement a program to ensure that project sponsors expend  
3 funds derived from the fee in an efficient and effective manner.  
4 No operating or maintenance funding provided from the fee shall  
5 be used to supplant any funds within the discretionary control of  
6 the recipient agency that are used for existing transportation  
7 operating or maintenance activities.

8 SEC. 10. The Legislature finds that there is no mandate  
9 contained in this act that will result in costs incurred by a local  
10 agency or school district for a new program or higher level of  
11 service which require reimbursement pursuant to Section 6 of  
12 Article XIII B of the California Constitution and Part 7  
13 (commencing with Section 17500) of Division 4 of Title 2 of the  
14 Government Code.